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South Carolina House of Representatives

# Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

Vol. 2

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S. C. STATE LIBRARY

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STATE DOCUMENTS

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# *Legislative Update*

## Legislation Introduced

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### Agriculture & Natural Resources

Inspection of Out-of-State-Waste (H.2434). As we all know, a great deal of the nuclear and hazardous waste brought into South Carolina comes from beyond our borders. This bill would require DHEC to inspect the waste before allowing it into South Carolina. Handlers of waste would have to put up a bond of \$1 million dollars with the state and pay an annual fee of \$25,000. The penalty for violation would be \$50,000 or 2 years in prison or both.

Protecting the Alligator (H.2462). This bill would impose penalties on those who traffic or deal in alligator hides. The animal protected is the American alligator, *Alligator mississippiensis*.

### Education & Public Works

No School Before Labor Day (H.2440). No school term would be allowed to begin prior to the day following Labor Day.

Twin-Trailers Again! (H.2449). Drivers of the famed "twin-trailer" trucks would be required to obtain a special license from the Department of Highways and Public Transportation. The Department would also have the authority to establish requirements and standards for license holders. The fee would be \$25 per year.

### Judiciary & Government Operations

Juror Employment Protection (H.2430). An employer would be forbidden to discharge an employee because of jury service. At present, some persons argue that low voter registration in South Carolina is caused by persons anxious to avoid jury duty--and loss of their job is sometimes given as a reason for avoidance.

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Uniform Magistrate Terms (H.2437). The terms of magistrates currently vary from county to county. This bill proposes a constitutional amendment to allow the General Assembly to set uniform terms for magistrates. No specific term is mentioned. Another bill, H.2405, sets uniform magistrate compensation and has already been discussed in the House. (See *Update* Number 7)

Burglary (H.2461). Establishes three degrees of burglary. All burglary consists of entering a building with intent to commit a crime. First degree burglary would take place if the person or persons were either: armed with a deadly weapon, caused injury to a person in the house, used or threatened to use a dangerous instrument, or displayed a firearm. It would also be first degree burglary if a person with two or more burglary or housebreaking convictions committed the crime, or if the crime was committed during the nighttime. The punishment could be life imprisonment, but in no case less than 20 years.

Second degree burglary would be substantially the same as first degree, with the exception of the crime taking place at night. Sentence would be for not more than 20 years at the court's discretion.

Third degree burglary would be entering a building without consent to commit a crime. Up to ten years in prison would be the punishment.

Notice of Regulation Drafting (H.2464). This bill would require state agencies to give prior notice that they intend to draft or amend rules and regulations. At present they are simply required to give notice that the rules are already in the process of being written. This legislation would allow time for more comment and suggestions from the public before the actual rule writing commences.

Labor, Commerce & Industry

Textile Study (H.2460). Empowers the South Carolina Textile Industry Study Commission to look into restrictions that other states or countries might place on South Carolina textiles. Are there quotas, high duties and tariffs or other barriers to the export of our textile products? If so, the Commission would be authorized to examine the feasibility of similar restrictions to compensate.

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NCSL Education/Employment Conference

March 23-24 the National Conference of State Legislatures (NCSL) will hold a conference in Charleston, South Carolina entitled "Education for Work: What Options for the States?" The conference will be based at the Mills House Hotel. The following preliminary agenda has been sent to the Research Office by NCSL.

Friday, March 22: Evening

Registration and reception

Saturday, March 23: Morning

Registration and continental breakfast

Greetings

Overview of Conference

Alternative Education Policies for Learning to Work

Panelists:

David Shreve, American Home Builders Institute

Ron McGage, Director Vocational-Technical Education Consortium  
of the States

Ivan Charner, National Institute for Work and Learning

Pragmatic, Traditional and Technological Solutions

George Nolfi, Senior Management Analyst, Department of Defense

Saturday, March 23: Afternoon

Visit to City Venture Corporation (includes lunch)

Perspectives for Assessing Qualifications for Work

Panelists:

Joan Wills, National Governor's Association

Kenneth Edwards, International Brotherhood of Electrical Workers

Dorothy Fenwick, American Council on Education

David Newman, Control Data Corporation

Sunday, March 24, 1985

Continental breakfast

The Rocky Road of Legislative Reform in the Florida Vocational  
Education System

Panelists:

Hon. Curtis Peterson, Florida State Senate

Hon. T. K. Wetherall, Florida House of Representatives

Legislators' Respond to issues raised in the conference

### Library Legislative Day

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On Wednesday, March 6, library trustees, friends, administrators, and other supporters from across the State will gather in Columbia to meet with state legislators to remind them of the importance of public library service and to urge support, not only for the state's public libraries, but also for the South Carolina State Library in its role of coordinator.

The General Assembly, by concurrent resolution, has recognized the day as Library Legislative Day in South Carolina, and welcomes library supporters from across the State to the capitol. The resolution also expresses the appreciation of the General Assembly to the public libraries and the South Carolina State Library.

There is a luncheon scheduled for the day at the Carolina Inn.

### "Happy Hour" Legislation

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"Happy Hours" are those periods when a bar or lounge serves drinks at reduced prices (often two-for-one) and engages in other promotional activities using alcohol to increase business. Such practices are being carefully scrutinized across the country, and in many states laws and regulations are being tightened to restrict "happy hours." In South Carolina H.2317 would severely curtail a number of such practices, including the two-for-one drink offers. [See *Legislative Update* Number 6]

Ohio and New Jersey were the first states to take action in this area. The Ohio Liquor Control Commission prohibited two-for-one and three-for-one drink specials. While the Commission did allow reduced prices during "happy hours," bars cannot serve a customer more than one drink at a time. Price reductions cannot be offered after 9 pm. The rules went into effect on September 20, 1984.

Massachusetts has enacted a law similar to H.2317 in that it is a comprehensive ban on all drink discounts and giveaways. The law went into effect December 10, 1984. Before the state-wide legislation a number of Massachusetts municipalities had already taken action.

Other states which have outlawed the two-for-one specials: Delaware, New Jersey, Michigan, Texas, and Nebraska. New Jersey is considering expanding its legislation to include all alcohol promotions.

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How are alcohol-related businesses and organizations reacting to this move?

Many are calling for voluntary action by bars and lounges. The Missouri Restaurant Association has approved a policy of discouraging its members from using special drink prices for promotions. The Downtown Restaurant Association in Indianapolis has agreed to drop two-for-one specials--but will keep cut-rate prices during "happy hour." The Restaurants of Oregon Association Board of Directors has voted unanimously to ask its 850 members to stop two-for-one specials. According to the president of the group, most members already have stopped the practice.

In Alabama the Hotel and Motel Association supports state regulations banning multiple drinks. According to the organization's executive director, Jim Cunningham, the group supports "rules that would require a customer to ask for a second or third drink."

Source: From the State Capitals

### Minerals Mined in South Carolina

H.2407 (which has been carried over for debate this week) would amend the South Carolina Mining Act, and deals with issuing mining permits and limits appeals to persons directly affected by mining operations.

The question has been asked, just what is mined in S.C. and how much is it worth? According to the latest *Statistical Abstract* the total value of mineral production was \$119,388,000. The bulk of this came from crushed stone, \$53 million. Clays accounted for \$28 million; sand and gravel for \$23 million. A variety of minerals accounted for almost \$14 million.

The coastal counties are the source of sand, clay, and limestone. The midlands provide sand, clay, kaolin, Fullers Earth, some granite and shale. Upstate provides both sand and the harder minerals, principally granite.

The county richest in mined minerals is Cherokee, which produces: limestone for crushed stone, limestone for agriculture, granite crushed stone, shale, manganiferous shale, sand, sericite, and clay.

# Voter Registration by Mail

## Summary

Voter registration by mail dates back to the 1940's. Since 1942 federal law has allowed members of the armed forces to register and vote absentee; by 1944 all states had passed laws consistent to this. Texas, in 1941, was the first state to extend registration by mail to the civilian population. Currently 22 states have adopted voter registration by mail legislation. (See list on page 5 of this report.) This Research Report examines the general concept, its possible benefits and drawbacks, and specific application in three states: Alaska, Iowa and West Virginia.

## Why Registration?

First a question: why have voter registration at all? The answer is to provide a control mechanism to assist election officials in conducting fair and orderly elections. With a list of registered voters we can prevent or reduce vote fraud and other abuses of the democratic process.

In the United States there are three methods used to register voters: 1) The voter can register in person with a registrar or election official before election day; 2) The voter can register in person on election day; 3) The voter can register by mail. Naturally a state can use any or all of these methods. No matter the method used, the desired result is still the same: control over the electoral process to prevent such unwanted activities as a heavy voter turn-out from the county cemetery or the "vote early and often" syndrome.

## Registration by Mail: How It Works

Typically registration by mail operates on two levels: state and local. The state is generally responsible for establishing the laws, rules and regulations controlling the program; printing and distributing the necessary forms; and, in some cases, providing funding for the administration of the program. Local jurisdictions are responsible for the actual administration of the registration effort—that is, distributing and processing the forms, maintaining the registration lists and guarding against irregularities and fraud.

The state prepares a voter registration card. This card can be distributed in one of the following fashions: 1) It can be sent to persons on their request; 2) It can be picked up at the registrar's office or other location, such as a post office or county library;

3) It can be mailed en-masse to the population at large, either by itself or as part of tax forms or other government correspondence. A typical voter registration card is shown below on page 6.

The voter completes the card which calls for the same information he or she would provide in person. The card is then mailed to the local election authorities--usually the county election department or commission. The election authorities process the card and enter the person's name on the election rolls. When election day comes the voter is identified and the name checked off in the standard fashion.

The only essential difference between registration by mail and registration in person is that the individual voter does not have to be present physically to register.

#### Benefits and Drawbacks

Those who support registration by mail claim the following five points in its favor:

1. Citizen ease of registration. By simply mailing in a card a person avoids the need to take time off from work, or drive a long distance, or get a ride if he or she has no car, or stand in a long line. Registration by mail is of particular benefit to the handicapped and elderly.

2. Standard statewide procedure. The state provides one common form and procedure for the registration process. This uniformity makes it easier for counties to exchange information, for the state to regulate elections, and for citizens to change their registration if they move.

3. Lower cost of registration. When voters must register in person an election official must be paid to take their registration. There are often "peak periods" of registration--generally before elections. Additional registrars must sometimes be hired to handle the work load. Outreach registration efforts require more persons be brought on. Registration by mail lessens these costs. A Director of the Elections and Public Records Division in Oregon says this about registration costs:

Voter registration by mail is probably the most inexpensive method of establishing a continuous voter registration outreach program. The mail-in registration form costs about 25¢ more than a registration form used to register citizens in person. Since all costs incurred to process a voter registration form at the same after the form is received by a county clerk, we estimate that our outreach program costs 25¢ per registration. This program is far less expensive than the more traditional voter registration outreach programs



I have used in the past, such as, mobile registration vans and special registrations at supermarkets, schools and hospitals. Labor costs cause this type of voter outreach program to be very expensive.

4. Requirements of the Voting Rights Act. States are supposed to meet certain goals under the Voting Rights Act, mainly making voting more accessible to minorities and other traditionally deprived of voting rights. Registration by mail increases the availability of the right to vote.

5. Increased turnout. This is based on the premise that if it is easier to register, more people will do so; if more people register, more will vote.

Of course there are those who oppose registration by mail because of the obstacles and problems associated with it. These include the following:

1. Fraudulent registration. Since an individual does not have to appear in person to register, no identification check can be made. What is to prevent someone from registering several times, and appearing at the polls with a succession of false identification cards? In order to prevent fraudulent registration careful screening of incoming forms must be done; in some states an address verification card is sent back to the voter once the registration has been processed. Some states use cross-checking with other records, such as drivers license, tax rolls, etc. Of course, all this adds to the cost of the registration process.

2. Operating costs. Starting up a mail registration system obviously would require printing the forms, training the workers and preparing new registration rolls. Once the program was in operation there would be on-going expenses as well. How would the costs be shared among the various levels of government?

3. Partisan politics. A political party might feel easier registration would be to its benefit, or it might fear that the new voters would come mostly from its opponents.

4. Illegible handwriting and incomplete forms. These two problems actually occur less often than might be supposed. A study by the Department of Commerce found that less than 5% of mail registration forms had to be reprocessed because of sloppy handwriting or omitted information. The best safeguard is a carefully designed and easily completed application form.

5. Mailing address not that of residence. If a person has a post office box as a mailing address, how can the election commission assign them to a precinct? The answer is to have a place on the application for both a mailing and a residence address, and hope the form is completed properly.

6. Pranks. What is to stop someone from filling out a registration form for his goldfish, or Charles Dickens, or Dagwood Bumstead? There may be no voter fraud involved here, but time and money will be lost in processing these phony forms. Pranks are especially prevalent when a mail registration system is first implemented.

7. Distribution and return. Forms must get to the citizens in order to be used. Mailing them out will cost money; distribution by staff will take up time and money; giving them to community groups will lessen control by the authorities. An additional point to consider: will the return envelope be postage paid?

#### Iowa, West Virginia and Alaska Laws

Iowa has a simple, straightforward system. A voter asks for a registration form, completes it at home and mails it to the county commissioner. Within five working days the commissioner sends the registrant a voter registration card.

Alaska and West Virginia require more effort on the voter's part. West Virginia provides the application forms on request; the forms must be completed and notarized before they are returned. The registrant receives a "voter notification form" in reply..

In Alaska, after a form is obtained, it must be "executed before a notary public, a commissioned officer of the armed forces including the National Guard, a district judge or magistrate, a United States postal official, or other person qualified to administer oaths." However, there is an alternative: "If none of the officials listed in this subsection is reasonably accessible, the person shall have the forms witnessed by two persons over the age of 18 years." Once the application has been processed the director of elections mails the voter a registration card.

#### States That Have Registration By Mail

Alaska	Maine	Oregon
California	Maryland	Pennsylvania
Delaware	Minnesota	Tennessee
Iowa	Missouri	Texas
Kansas	Montana	Utah
Kentucky	New Jersey	West Virginia
Louisiana	New York	Wisconsin
	Ohio	

## Mandatory Seat Belts, Air Bags and Federal Regulations: Conference Airs Views Pro and Con

### Background

Elizabeth Dole, Secretary of the Department of Transportation, issued a ruling in July, 1984 regarding automatic occupant restraints in automobiles. The Federal Motor Vehicle Safety Standard 208 requires manufacturers to phase in passive restraints--air bags, automatic seat belts, friendly interiors--between 1986 and 1989. However, if states covering two thirds of the U.S. population enact mandatory seat belt laws, these passive restraints will not be required.

State laws would have to meet the following DOT standards: 1) Belts would have to be worn by each front seat occupant; 2) Waivers to the use of seat belts should be permitted for medical reasons only; 3) The penalty would be not less than \$25.00 for each passenger not wearing a belt; 4) If a person is involved in an accident while not using his or her seat belt, that fact can be used to mitigate damages awarded for injuries sustained in the accident; 5) An education program must be operated to encourage compliance with the law; 6) Seat belt laws would have to become effective no later than September 1, 1989.

Legislation has been introduced into the S.C. House requiring mandatory seat belts. In Issue 3 of the *Legislative Update* we presented a summary of actions in other states on the issue; this issue we report on a conference in Washington D.C. last autumn that addressed Secretary Dole's ruling--and its implications to the nation and to states.

This report is based on a *State-Federal Issue Brief* published by the National Conference of State Legislatures concerning a recent conference on the issue in Washington, D.C. (our nation's capital). Arguments for and against the ruling were made; these might be of interest to lawmakers in the General Assembly.

### DOT's Dole Details Decision

Secretary Dole spoke to explain the background and purpose of her ruling, first citing the reasons that made it necessary.

Her major concerns, she said, were with the victims of automobile accidents--victims who could be protected through restraint systems. She cited the 43,000 deaths that occur each year on our highways, and the \$2 billion a year cost in federal assistance payments, the more than \$5 billion revenue loss.

The DOT ruling is planned to be part of a two-part program. Mandatory seat belt laws would go into effect in the near future, providing immediate protection. A long-range research and development effort on passive restraints, such as air bags, would improve passenger safety into the 1990's.

#### Public Citizen Cries Car-Maker Cabal

John Claybrook, President of the public interest group Public Citizen, took a different, and negative, view of the ruling. He called the decision "illegal under the National Traffic and Motor Vehicle Safety Act of 1966 as amended, and misleading to the public with respect to the preferred technology which should be installed in cars to protect occupants in crashes."

Claybrook maintained that safety belts have not been proven as protective as air bags, especially in crashes over 35 mph--the median speed for fatal accidents. Claybrook saw the auto companies as the leaders of the cabal against air bags. He quoted the Supreme Court that the auto the industry has waged 'the regulatory equivalent of war' against the air bag for more than a decade. There would be no further development of air bags and other passive restraint devices by auto manufacturers. Instead, according to Claybrook, "they will work to barely pass the minimal standard in the cheapest possible way."

The public, according to Claybrook, supports passive restraints: A Gallup poll found that 65% of the public favor a requirement for air bags, while 31% oppose it. Other polls showed the public strongly opposed to mandatory seat belt use laws. Auto makers are supporting such laws simply to reduce their costs.

#### Motor Vehicle Mavin Applauds Seat Belt Laws

Dr. Fred Bowditch, of the Motor Vehicle Manufacturers Association, spoke out in favor of seat belt legislation: "Motor vehicle manufacturers have long been convinced that the most effective and immediate path to reducing highway fatalities and injuries is the high percentage use of the safety belt already installed in today's cars."

Bowditch argued that seat belt laws can and do work in other countries, and that they can work here. With 70% use last year in American there would have been 7,000 fewer deaths and 145,000 fewer moderate to critical injuries to car drivers and to their front seat passengers.

Dr. Bowditch cast a cold eye on the airbag: 1) the airbag is effective only in frontal collisions--about half of all accidents--and that a lap belt must be worn with it to make it as effective as the three-point system in cars today, and, 2) Even if automatic restraints are phased in according to present Federal requirements, it will be as long as 15 years before there are as many airbags as we now have seat belts. Clearly unaffected by a sense of *neuerungsfreudigkeit*, (joy in innovation) Bowditch supported existing restraints--seat belts--instead of innovations such as airbags.

"The U.S. is the only major country in the world without a seat belt use law," Bowditch dramatically revealed. He offered the following usage figures: Australia, 70%; Great Britain, "a startling 90 percent after little more than a year." Sweden credits its belt use law with savings of \$22 to \$45 million. (Yumping Yiminy!) In Canada the average cost of medical treatment was \$228 for seat belt users and \$419 for non-users.

#### Insurance Exec Backs Bags, Belts Feds

James Fitzpatrick, representing the insurance industry, supported requirement of passive restraints and attacked the procedure that would drop such rules if enough states pass seat belt laws. It is bad law to shift the burden of setting safety standards onto state legislatures, Fitzpatrick maintained. In addition, it is "directly contrary to the federal Highway Safety Act that says DOT has the responsibility to promulgate national, uniform federal standards."

#### Medico Boss Sez Belts Fine By Her

Elaine Petrucelli, Executive Director of the American Association for Automotive Medicine, was the final speaker at the conference, and was in favor of Secretary Dole's ruling. Her reason: "Passage of safety belt use laws will have the immediate payoff of saving lives and reducing serious injuries. If all states enact legislation, and even at a 50% compliance rate which is conservative given the changing attitude of the public about belt use, an estimated 7,500-8,000 deaths and 450,000 reported injuries can be prevented annually"

Petrucelli said belts were more effective than air bags and are already in place.

#### Conclusion

If debate becomes intense on mandatory seat belt legislation in South Carolina, participants can take some comfort in knowing that nationally, the issue is far from resolved. The remarks of participants at the Washington conference on the subject are clear proof of that.